

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

RAYMOND LEE KYLE,

Plaintiff,

v.

GREGORY SKIPPER et al.,

Defendants.

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CASE No. 1:19-CV-353

HON. ROBERT J. JONKER

**ORDER APPROVING AND ADOPTING  
REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Green’s Report and Recommendation in this matter (ECF No. 43) and Plaintiff’s Objection to it. (ECF No. 44). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, “[t]he district judge . . . as a duty to reject the magistrate judge’s recommendation unless, on de novo reconsideration, he or she finds it justified.” 12 WRIGHT, MILLER & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 451 (3d ed. 2014). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiff’s Objection. After its review, the Court finds that Magistrate Judge Green’s Report and Recommendation is factually sound and legally correct.

Plaintiff's Objection contains nothing that undermines the validity of the Report and Recommendation, and he fails to deal in a meaningful way with the Magistrate Judge's analysis that Defendant Skipper is entitled to summary judgment because the claim against him is unexhausted. As the Magistrate Judge properly concluded, Plaintiff's Step I grievance failed to mention Defendant Skipper or raise any claims against him. The Court agrees with the Magistrate Judge's conclusion that Defendant Skipper is entitled to summary judgment and Plaintiff is not, for the very reasons the Report and Recommendation delineates.

The Magistrate Judge further recommends denying the motion to the extent Defendant Rodenault seeks summary judgment. Plaintiff's claims against this defendant, the Magistrate Judge reasons, were properly exhausted and ought to go forward. Defendant Rodenault has not objected to the Magistrate Judge's recommendation. The remaining claims against Defendant Rodenault in this case will go forward.

### **CONCLUSION**

**ACCORDINGLY, IT IS ORDERED** that the Report and Recommendation of the Magistrate Judge (ECF No. 43) is approved and adopted as the Opinion of the Court.

**IT IS FURTHER ORDERED** that Defendants' Motion for Summary Judgment (ECF No. 28) is **GRANTED IN PART**.

**IT IS FURTHER ORDERED** that Defendant Skipper is dismissed as a defendant from this case.

Dated: July 21, 2020

/s/ Robert J. Jonker  
ROBERT J. JONKER  
CHIEF UNITED STATES DISTRICT JUDGE